

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Brian McCarty,

File No. 18-cv-00791 (ECT/KMM)

Petitioner,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

Warden R. Marques,

Respondent.

The Court has received the January 4, 2019 Report and Recommendation of United States Magistrate Judge Katherine Menendez. ECF No. 21. No party has objected to that Report and Recommendation, and the Court therefore reviews it for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Finding no clear error, and based upon all of the files, records, and proceedings in the above-captioned matter, **IT IS HEREBY ORDERED THAT:**

1. The Report and Recommendation [ECF No. 21] is **ACCEPTED**;
2. The Petition for Writ of Habeas Corpus [ECF No. 1] is **DENIED** as moot;
3. The Emergency Motion to Expedite Consideration of 2241 Petition [ECF No. 3] is **DENIED** as moot; and
4. The action is **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 23, 2019

s/ Eric C. Tostrud

Eric C. Tostrud

United States District Court